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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,348	03/26/2004	Manfred Gilbert	LEAP:136US	1567

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S. Peter Konzal, Esq.
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221-5406

EXAMINER

NGUYEN, THONG Q

ART UNIT	PAPER NUMBER
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2872

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/811,348	Applicant(s) GILBERT ET AL.	
	Examiner Thong Q. Nguyen	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 1/29/2007. It is noted that in the amendment, applicant has amended claims 9-21, 23 and 25-27 and added a new dependent claim 28. The pending claims 9-28 are examined in this Office action. Note that claims 1-8 were canceled by applicant in the amendment of 4/27/06.

Claim Objections

2. The objections to claims 15-19 are overcome by the amendments to the claims as provided in the amendment of 1/29/07.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 15 is rejected under 35 USC 112, second paragraph for the following reasons. First, it is unclear about the structural relationship between the recessed portion formed on the interior surface of the arcuate microscope arm and the removal panel formed on the interior surface of the arcuate microscope arm. In particular, the recessed portion as defined in base claim 15, lines 3-5, clearly is an integral component of the interior surface. Thus, the recitation that the

recess portion is a removable panel as claimed makes the structure of the device claimed unclear. Should claim 15 be amended to recite that the microscope further comprises a removable panel disposed on the at least one recessed portion ?

Second, it is unclear what surface of the recessed portion is used to grip the microscope. Applicant is respectfully invited to review the feature related to the recessed portion of the interior surface of the microscope arm which recessed portion has a surface for gripping the microscope as recited on last two lines of base claim 9, and the feature related to the recessed portion of the removal panel which recessed portion extends from the interior surface of the microscope arm and has a surface for gripping the microscope as recited on claim 15, lines 3-7. Applicant should note that if the removal panel is formed on the recessed portion of the microscope arm then the surface of the recessed portion of the removal panel, not the surface of the recessed portion of the microscope arm, is used to grip the microscope.

b) The remaining claims are dependent upon the rejected base claim and thus inherit the deficiency thereof.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 9-12, 14, 20-25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fassin (U.S. Patent No. 2,135,870) in view of DiResta (U.S. Patent No. 5,844,714, of record) and Ampel (U.S. Patent No. 5,556,150).

Fassin discloses a microscope. The microscope as described in columns 1-2, in particular, column 2, lines 11-20, and shown in figures 1-2 comprises the following features: An arcuate microscope arm (39) for supporting an observation system (41) and a stage (20). The observation comprises a revolver supporting a plurality of objective lenses (42) and an ocular (43). The arcuate arm has an interior surface facing the observation system and also proximal to a user, see the arrangement of the ocular with respect to the arcuate arm as shown in each of figures 1 and 2, and an exterior surface opposite to the interior surface wherein each of the interior and exterior surfaces has a curved configuration.

The interior surface defines an opening with respect to the observation system and the stage so that a user can utilize that opening for holding the microscope and then for transporting the microscope. It is noted that Fassin does not disclose that the interior surface of the arcuate microscope arm has at least one recessed portion having a surface for the purpose of gripping the microscope.

The use of an arcuate microscope arm supporting an observation system and a stage wherein the interior surface of the arcuate microscope has at least one recesses for the purpose of gripping the microscope is known to one skilled in the art as can be seen in the microscope provided by DiResta. In column 2 and shown in figures 1-2, DiResta discloses a microscope (10) having an arcuate

microscope arm (18), see also abstract, for supporting a lens assembly (12) on one end and a supporting mechanism (66) on other end for mounting on a microscope base (26). The arcuate microscope arm (18) has an interior surface facing the stage (30) and an exterior surface wherein the interior surface comprises a main contoured portion (22) having a plurality of fixed individual finger grip recesses (24) for the purpose of facilitation the holding of the microscope. See column 2, lines 9-13. While DiResta does not clearly state that each of individual finger grip recesses of the contoured portion has an arcuate shape and extends from the interior surface of the arm to an inner recess surface of the arm as claimed; however, such feature is known and also disclosed in the art as can be seen in the device provided by Ampel. In particular, in column 2 and shown in figures 1-2, Ampel discloses a device having handgrips and teaches that the surface of each handgrip comprises a contour portion (111, 121) having a plurality of individual finger grip recesses (112, 122). Each of grip recesses has an arcuate shape and extends from the interior surface of the arm to an inner recess surface of the arm. It is noted that each of finger grip recesses as shown in figs. 1-2 comprises at least one wall having an arcuate configuration extending from the interior surface of the arm to the inner recess surface of the arm. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the microscope provided by Fassin by formation a contour portion having a plurality of arcuate finger recesses on the interior surface of the arcuate microscope arm as suggested by DiResta and Ampel for

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the purpose of facilitation the holding of the microscope and increasing the force of the user's hand/fingers on the microscope arm during a transportation of the microscope from one location to other location.

7. Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fassin in view of DiResta and Ampel as applied to claims 9 and 20 above, and further in view of Stevens (U.S. Patent No. 5,406,731, of record).

The microscope with the interior surface defined an inner recessed section as provided by Fassin, DiResta and Ampel does not state that the inner recessed section comprises a textured surface for the purpose of increasing the static coefficient of friction. However, it is known to one skilled in the art to use a surface having a textured surface for such mentioned purpose. One use of a textured surface on a surface used to grip by a user's hand is disclosed in the apparatus provided by Stevens. See column 4, lines 45-65. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the microscope provided by Fassin, DiResta and Ampel by using a textured surface on a surface using to grip by a user's hand as suggested by Stevens for the purpose of increasing the coefficient of friction between the user's hand and the recessed section of the interior surface of the stand when the user grips the microscope.

Response to Arguments

8. Applicant's arguments with respect to claims 9-20, now applied to claims 9-28, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

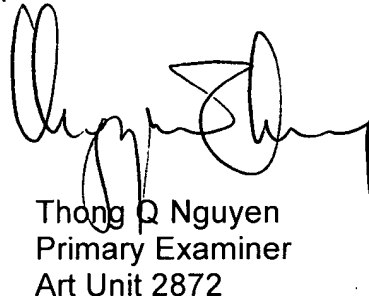
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen
Primary Examiner
Art Unit 2872
